



## Caltrans Statewide Small Business Council Minutes of Meeting – June 16, 2006

Caltrans District 10 Office  
1976 E. Charter Way  
Conference Room #56-71  
Stockton, CA 95201  
Telephone: (209) 948-7543

### Statewide Council Members Present:

**Black, Sandy** American SubContractors Association of California, Inc.(ASA)  
**Chaudhary, K. C.** Consulting Engineers and Land Surveyors of California (CELSOC)  
**Fernandez, Raul** Filipino-American Society of Architects & Engineers, Southern California (FASAE)  
**Garcia, Rodrigo** Society of Hispanic Professional Engineers (SHPE)  
**Guerrero, Paul** California Small Business Entrepreneurs, Inc  
**Hou, Johnathan** Asian Business Association  
**LaCome, Diana** National Concilio of America (NCA)  
**Patten, Ezekiel** Black Business Association  
**Quevedo, Alfred** Society of American Military Engineers (SAME)  
**Sullivan, Steve** California DVBE Alliance  
**Yang, William** Asian-American A&Es – So Cal

### Caltrans Staff Present:

**Ajise, Kome** District 10  
**Carrera, Angel** Civil Rights  
**Dunning, Julie** District 10  
**Galia, Cris** DPAC  
**Gordon, Germaine** District 10  
**Noguiera, Zelig** District 10  
**Nguyen, Lam** DPAC  
**Padilla, Robert** Civil Rights  
**Perez, Jane** District 10  
**Peterson, Jerold** Surveying  
**Richardson, Nellie** District 11  
**Robertson, Deborah** District 7  
**Robledo, Perfecto** District 10  
**Salais, Janice** Civil Rights  
**Smith, Jacquelyn** District 10  
**Wright, Rhiannon** Civil Rights  
**Zuppan, Vickie** Local Assistance

### Guests Present:

**Bivens, Bobby** Stockton NAACP  
**Harding, Charles** Harding Construction  
**Heringer, Laura** GCAP Services  
**Padilla, Pat** Padilla & Associates  
**Smith, Sonny** OP2 Consulting  
**Strong, Chlotilde** Plan A Construction Services, Inc.  
**Vasquez, Jonathan** Bay Area Concretes, Inc.

### ***Welcome/Introductions/Opening Remarks:***

As acting Chair, Paul Guerrero began the meeting by welcoming and thanking all present for their attendance. Introductions were made around the room.

### **ITEM #1: Approval of May 18, 2006 Statewide SB Council Meeting Minutes**

Motion: Councilmember Hou

Second: Councilmember Patten

Approved by consensus with the following amendments:

- Rodrigo Garcia, *Society of Hispanic Professional Engineers (SHPE)*
- Add Steve Sullivan in attendance.

### **ITEM #2: District 10**

#### **Local Assistance Programs and Projects in San Joaquin County.**

Jane Perez, Deputy District Director for Planning and Local Assistance, reported on the Local Assistance Program in District 10, including construction projects in San Joaquin County and the DBE Program Plan. Regarding the River Road Bridge Replacement Project, District 10 received a complaint and Request for Action regarding San Joaquin County's award of a federal-aid contract to William P. Young Construction Company, Inc. based on the determination of good faith effort to meet the DBE participation goal. The Department's evaluation of the complaint concluded the contractor did not make a good faith effort to solicit DBE subcontractors in order to meet the goal and identified steps to ensure compliance with the DBE requirements on all Federally funded contracts. Councilmember Hou asked about the type of training the Department gave or received. Ms. Perez stated the Department makes community outreach, training, and education efforts, including Local Assistance and DBE training, workshops and public forums.

Councilmember LaCome asked what other cities have participated in the training and what the Department is doing to emphasize not just meeting the goal but making the public aware of the changes it must institute in its DBE program. Mr. Robledo stated that most incorporated cities in San Joaquin County have participated in the training and the Department is placing a major emphasis on community outreach. Ms. Jacqueline Smith added the District has held training programs and is coordinating its public outreach efforts with HQ and Civil Rights DBE Program Manager, Angel Carrera. Councilmember Hou asked what the SBC could do in light of the change in the DBE Program from a Race Conscious to Race Neutral basis. Mr. Robledo stated the Department has contacted industry associations, general contracting and construction organizations, and community groups to inform them of the Availability/Disparity Study and individual SBC members can refer any requests for information to the Department.

Councilmember Hou also asked what penalties are there for the prime contractors who don't participate. District Director Ajise stated that there are no penalties. He said because the program is in flux, the Department should continue to provide outreach and monitoring as a proactive method to convey information to the contracting public.

Mr. Carrera agreed that meeting a DBE participation goal when it was a condition of award was difficult enough and without enforcement, getting the prime contractors to utilize DBEs is a true challenge. Additionally, Mr. Carrera said staff is working closely with District Small Business Liaisons and statewide small business associations to provide outreach to the construction community. He said we as a Department have to assert ourselves, challenge ourselves to find more creative ways to communicate with the public. Within the objective of the DBE Plan, the Department will work with Local Agencies.

Councilmember Patten said San Joaquin County is made up of 39% Hispanic, 17% Asian, and 12% Black residents, mathematically composing 68% of the entire population. Given this demographic if District 10 can't reach its DBE participation goal, how can an area like Los Angeles, reach its goal. District 10 Director Ajise stated that there is a lot of confusion about the transition of the DBE program and the Department needs to go beyond merely bringing minority chamber members together. Mr. Carrera encouraged the members to submit any ideas they may have to assist with public outreach to SBC Chair Fonseca.

Councilmember Yang asked that the Race Neutral basis for the DBE program be explained further and how it is no longer a required goal but a voluntary program. In describing the DBE Participation goal, Mr. Carrera explained that under race-conscious guidelines, contractors bidding for DOT contracts were required to submit a nine-step good faith effort checklist. Under the race neutral program, the Department can only ask contractors to comply with an Availability Advisory Percent (AAP). That is, nothing is required on paper from the contractor during the application process to indicate how many DBEs, if any, a contractor is considering in the contract, should they be awarded. Under Race-Neutral contracting guidelines, the contractor is encouraged to meet a AAP goal. The DOT's Local Assistance Program Division oversees the DBE program, among others, in more than 600 statewide cities, counties and regional municipalities, for a combined \$1 billion annually in project funds.

Councilmember Garcia wanted to know what the Department is doing to make a difference and if District Director Ajise is personally meeting with the contracting community. District 10 Director Ajise said he meets with groups but most of the contracts have been in place 2-3 years. Renewal of those contracts will be made to include the race-neutral program changes. He said the Department couldn't underestimate the effects of community outreach but it is not taking it lightly. He is meeting with contractors, AGC, joint small business groups in meetings, seeking ways to better understand how contractors are executing contracts.

Councilmember Garcia said District 7 Director Doug Failing is listening to the concerns of small business. He says he (Director Failing) gets advice from the Legal Division, too, and makes changes nonetheless, to the Local Assistance Programs, and looks for ways to make it happen. Councilmember Guerrero said there is a dichotomy (paradox), for example, with AGC. They say they want to meet the DBE participation goals but in meeting the goals, they provide *prima facie* evidence that a DBE participation goal is not needed. He said if we look ahead to meet the goal in one year, we'll have evidence that a race conscious approach for federal-aid contracts is necessary because evidence of discrimination exists and will be detailed in the Disparity Study.

Ms. Robertson asked for the outcome of the River Road Bridge Replacement Project complaint and if the Department upheld the No Good Faith Effort decision. Ms. Perez said the Department had, in fact, determined the contractor, William P. Young Construction Company, Inc. did not make a good faith effort to solicit DBE subcontractors. Ms. Robertson suggested District 10 establish a pilot program that allows strategy sharing from district to district on goal attainment and asked about the performance of District 10, prior to May 1<sup>st</sup>, on DBE participation goals. Mr. Robledo said the goals have been met and Good Faith Efforts have been evaluated and verified.

Ms. Vickie Zuppan said the Local Assistance program made it clear why they should use AAP, not goal attainment and explained they should not put zero availability. She said Local Assistance is tracking availability and it is important for the Local Agencies to monitor and report its contracting activities. Ms. Robertson asked when the Disparity Study would begin and whether a consultant had been hired to perform the Study. Mr. Carrera said a decision by the Department of General Services (DGS) dated June 12, 2006 in the matter of the Protest of the Proposed Award on behalf of National Economic Research Associates, Inc.

(NERA) and Mason Tillman Associates, LTD. vs. the Department of Transportation has been rendered. DGS has upheld the selection of BBC Research & Consulting (BBC) as contractor to perform the Availability and Disparity Study.

Councilmember Quevedo applauded the efforts of the Department to make things right. He said although community outreach is good. He said the percent-age of DBE participation needs to increase in California, that contractors need to demonstrate Good Faith Efforts, and that the Department should obtain more goals in areas like District 10.

Councilmember Sullivan said his company, Sullivan International Group, Inc., does \$20 million worth of business per year and 95% of that business comes from federal contracts. Small business set asides provide the necessary balance that creates large and small business partnerships – an equal dependence that does not rely solely on DBE goals that in most cases large business would prefer not to meet and small business spend way to much money marketing.

He suggested the Department consider a small business strategy that includes set-asides and call it a Procurement Acquisition Policy that offers dichotomy, choices and leverage that currently does to exist for small business. On the DVBE side, there is legislation signed by the Governor (SB 115) that creates incentives for contractors. It's not about setting goals; it's about creating a power position for small business. If the proper balance of goals and set asides were put in place via an equitable procurement policy or program where only small business can bid on substantial opportunities (set asides), big business will have a real reason to build the relationships with small business that currently do not exist.

Councilmember LaCome asked with the Race Conscious, Race Neutral basis, what will happen with Race Conscious and its procedures to get federal funding, what will happen with federal money when there are no goals. Mr. Carrera stated we still have to operate a DBE Program. We have to make, and show effort towards implementing the DBE Plan. Acting Chair Guerrero said there has always been a Race Conscious/Race Neutral basis for awarding contracts and because of law suits, the Ninth Circuit Court decision renders a process we've never seen before. Most states are Race Conscious and if they continue to reach their goals they will eventually move toward a Race Neutral program. Councilmember Patten asked if Federal policy regulating funding yield to Proposition 209. Staff member Carrera said we have to be aware that Proposition 209 is a State proposition and the money we receive is from federal funding.

### **District 10 Small Business Outreach**

Julie Dunning, District 10 Deputy Director for Administration reported the District recently hired a Small Business Liaison and introduced Germaine Gordon. She emphasized the District's objective to outreach and monitor procurement activities for small business, DVBEs and DBEs. To date, \$1.7 million in procurement and 38% of District 10 expenditures has been dedicated to small business.

Councilmember Patten asked Ms. Dunning where she collected numbers from CalCard usage. Mr. Galia responded by informing everyone the numbers are on the Department's Intranet. He will get a break down and provide that information to the Commodities Committee. As a function of the Commodities Committee, this information will then be assembled and distributed to the entire Council at its next meeting.

District 10 Director Ajise welcomed everyone to the District 10 office. He re-stated his approach and that of his staff to provide SBEs, DVBEs and DBEs procurement opportunities through outreach and monitoring. He announced a new small business team was hired and again identified Germaine Gordon and Jacquelyn Smith.

### ITEM #3: District Updates and Update on SR 125 Project

**District 7:** Ms. Deborah Robertson, reporting on behalf of District Director Doug Failing, announced activities in the District are going well. She drew the Council member's attention to a recent article printed in the June 8, 2006 issue of *Small Business Exchange*. The article documents the merit and success of an innovative program launched in District 7 last fall called Cal Mentor Program. The Cal Mentor Program is a pilot project that seeks to increase DBE participation in state contracts and is doing so by holding face-to-face workshops and job procurement fairs that bring prime and subcontractors together. A DBE Cal Mentor participant who has secured a contract on one of four large-scale District 7 projects as a direct result of the program is San Pedro-based Berg & Associates, Inc., which provides a broad range of construction management services to both state and private contractors. Berg & Associates is leading a four-year contract that involves widening State Route 23 in Ventura County with a contract for approximately \$4 million.

Councilmember Hou stated that at the last District 7 SBC meeting, District Director Failing focused on Minor A&B and A&E Contracts. Ms. Robertson further reported that District 7 SBC will hold its next meeting July 14, 2006 and will feature a presentation by Internal Audits and Investigations Unit for District 7. She also announced the next District 7 Small Business Procurement Fair is planned for September or October 2006. Ms. Robertson recognized and acknowledged former District 7 employee Sonny Smith's participation.

**District 11:** Nellie Richardson announced an A&E Networking Fair scheduled for Thursday, June 29, 2006 to be held at the Caltrans facility on Juan Street in partnership with SANDAG, Caltrans, CELSOC, and the District 11 Small Business Council. For further information, contact Sonny Olaso at (619) 688-3302. Staff member Richardson reminded everyone that District 11 is preparing for its second annual Prime Contractor Award Breakfast in September and welcomes the opportunity to host the September 2006 Statewide Small Business Council meeting at its new building.

**California Transportation Ventures (CTV):** Pat Padilla, representing the Developer of the SR125 South Bay Expressway (SBX), distributed the SR125 Design Build Project's First Quarterly Report of DBE Commitments and Attainments covering the period of January 1, 2006 to March 30, 2006. The tables below highlight information reported: SR 125 South Bay Expressway (Toll Road Design Build Project) - DBE Commitments and Attainments Reported by Otay River Constructors "ORC" (*DBE Commitment and Attainment data reported reflects accumulative dollar values and percentages through the period of March 16, 2006<sup>1</sup>*)

|  | DBE Goal Commitment through 5/15/06 <sup>2</sup> |
|--|--|
| Total Commitment to ORC Toll Road DBEs <sup>2</sup>                                    | \$ 31,604,763.00                                 |
| Total Toll Road ORC Contract Value <sup>2</sup>  | \$ 253,868,881.68                                |
| Total ORC Toll Road DBE Participation Commitment (%)                                   | 12%  |
| ORC Toll Road Overall Project DBE Goal (%)   | 12%  |
| ORC Toll Road DBE Commitment through 5/15/06   | 12%  |
| % Needed to Meet Overall Toll Road DBE Goal based on ORC DBE Participation Commitments | 0%   |
| Remaining \$ Needed to Meet Overall Project Toll Road DBE Goal Commitment              | \$ -   |
| Dollar Value of ORC Toll Road DBE Commitment through 5/15/06 (12%)                     | \$ 31,604,763.00                                 |
| Estimated DBE Participation \$ to Meet Overall Project Toll Road DBE Goal of 12%       | \$ 30,464,265.80                                 |

|  | DBE Goal Commitment through 6/14/06 <sup>2</sup> |
|--|--|
| Total Commitment to ORC GAP/CONNECTOR DBEs <sup>2</sup>                                    | \$ 12,718,596.00                                 |
| Total GAP/CONNECTOR ORC Contract Value <sup>2</sup>  | \$ 108,387,969.54                                |
| Total ORC GAP/CONNECTOR DBE Participation Commitment (%)                                   | 12%  |
| ORC GAP/CONNECTOR Overall Project DBE Goal (%)   | 15%  |
| ORC GAP/CONNECTOR DBE Commitment through 6/14/06   | 12%  |
| % Needed to Meet Overall GAP/CONNECTOR DBE Goal based on ORC DBE Participation Commitments | 3%   |
| Remaining \$ Needed to Meet Overall Project GAP/CONNECTOR DBE Goal Commitment              | \$ 3,539,599.43                                  |
| Dollar Value of ORC GAP/CONNECTOR DBE Commitment through 6/14/06 (12%)                     | \$ 12,718,596.00                                 |
| Estimated DBE Participation \$ to Meet Overall Project GAP/CONNECTOR DBE Goal of 15%       | \$ 16,258,195.43                                 |

|   | DBE Goal Commitment through 5/15/06 <sup>2</sup> |
|---|--|
| Total Commitments to all TOLL ROAD DBEs <sup>2</sup>  | \$40,375,705.00                                  |
| Total TOLL ROAD Contract Value <sup>2</sup>   | \$284,819,537.68                                 |
| Total TOLL ROAD DBE Participation Commitment (%)  | 14%  |
| TOLL ROAD Overall Project DBE Goal (%)  | 12%  |
| Combined TOLL ROAD DBE Commitment through 5/15/06   | 14%  |
| % Needed to Meet Overall TOLL ROAD DBE Goal based on both ORC and SDELP DBE Participation Commitments | 0%   |
| Remaining \$ Needed to Meet Overall Project TOLL ROAD DBE Goal Commitment                             | \$ -   |
| Dollar Value of Combined TOLL ROAD DBE Commitment through 5/15/06 (14%)                               | \$ 40,375,705.00                                 |
| Estimated DBE Participation \$ to Meet Overall Project TOLL ROAD DBE Goal of 12%                      | \$ 34,178,344.52                                 |

|   | DBE Goal Commitment through 6/14/06 <sup>2</sup> |
|---|--|
| Total Commitments to all GAP/CONNECTOR DBEs <sup>2</sup>  | \$ 13,761,944.00                                 |
| Total GAP/CONNECTOR Contract Value <sup>2</sup>   | \$ 116,356,013.54                                |
| Total GAP/CONNECTOR DBE Participation Commitment (%)  | 12%  |
| GAP/CONNECTOR Overall Project DBE Goal (%)  | 15%  |
| Combined GAP/CONNECTOR DBE Commitment through 6/14/06   | 12%  |
| % Needed to Meet Overall GAP/CONNECTOR DBE Goal based on both ORC and SDELP DBE Participation Commitments | 3%   |
| Remaining \$ Needed to Meet Overall Project GAP/CONNECTOR DBE Goal Commitment                             | \$ 3,691,458.03                                  |
| Dollar Value of Combined GAP/CONNECTOR DBE Commitment through 6/14/06 (12%)                               | \$ 13,761,944.00                                 |
| Estimated DBE Participation \$ to Meet Overall Project GAP/CONNECTOR DBE Goal of 15%                      | \$ 17,453,402.03                                 |

Additionally, Ms. Padilla announced that SBX has released an Invitation to for Bid (IFB) for the Otay Mesa Road Detour Project (SBX Contract No. 230-008). This contracting opportunity is specific to the Toll Road Project. The Pre-Bid Conference (mandatory for all Prime Bidders) will be held on Thursday, June 22, 2006 at 2:00pm, at 880 Kuhn Drive, Chula Vista, CA, 91914. Bids for this project are due Wednesday, July 12, 2006. The DBE Availability Percentage for this project is 23%. The contract value range is approximately \$650,000 - \$750,000. The project has the following subcontracting opportunities:

- Roadway Grading
- Paving
- Drainage
- Pavement Delineation
- Signage
- Traffic Handling
- Traffic Signalization

ORC is in the process of awarding two subcontracts to DBE firms; one to Diversified Landscape for the seeding portion of the landscaping in the amount of \$250,000.00 under the Gap/Connector and the other to another DBE firm for specialized Earthwork, amount of the contract not provided at this time.

#### **ITEM #4: Statewide Committee Reports**

##### COMMODITIES:

Councilmember Patten reported the Committee discussed its desire to have District Procurement Fairs noticed in the Civil Rights/SBC web sites. Additionally, as the District Small Business Liaisons begin having quarterly meetings via conference call, that they submit Evaluation forms and dollar volume of their respective Procurement Fairs. And finally, committee members discussed the possibility of Caltrans partnering with the California Department of Corrections for future Procurement Fairs.

##### PROFESSIONAL SERVICES:

Councilmember Chaudhary thanked Councilmember Guerrero for hosting the Professional Services Committee meeting held Thursday evening, June 15, 2006. Topics for discussion were Substitution Policy, In Roads/DBE Survey, Timely Pays to Subcontractors and an A&E Selection Panel. He also thanked Lam Nguyen, Acting Division Chief for DPAC for attending the meeting and providing valuable input. Acting Chair Guerrero added that Substitution Policy was an Action Item of the Construction Committee but that he would appoint a subcommittee later in the meeting. Councilmember Hou suggested that since Tom Sanborn (DPAC) was doing the analysis for DPAC contracts, he do the same for A&E contracts as well. Finally, Councilmember Hou reported that Staff member Nguyen would continue to attend Professional Services Committee meetings until such time as a permanent Division Chief for DPAC is named.

##### CONSTRUCTION

See Action Item listing for the Construction Committee.

##### DBE ANNUAL GOAL SUBCOMMITTEE

See Action Item listing for the 2006 DBE Annual Goal Subcommittee goals and updates.

##### EXECUTIVE COMMITTEE

The Executive Committee did not meet.

## **ITEM #5: Public Comment/Good of the Order**

Mr. Robert Padilla reported Travel Expense Claims (TECs) submitted by Council members for January, February, and March 2006 has been paid by the Department Accounting Office. Members should begin receiving reimbursement checks beginning Monday, June 19, 2006. Additionally, he provided a demonstration of the SBC Website and although it is operational, there are additions to make, such as the Small Business Activities Calendar web page.

Councilmember Garcia made a motion that an SBC member be selected to work with the Disparity Study Project Manager (when appointed) and provide input as appropriate. Councilmember Patten seconded the motion. Motion passed by consensus.

Acting Chair Guerrero appointed Councilmembers Lau, McGlover, Llewellyn, and Guerrero to serve as Substitution Policy subcommittee.

Acting Chair Guerrero recognized Mr. Bobby Bivens, President of the Stockton NAACP and asked if he had comments to the SBC. Mr. Bivens stated that there is not enough outreach getting to the public. Mr. Bivens felt DBE should be a priority for San Joaquin County, however, he will continue outreach to the public.

Ms. Janice Salais, Contract Evaluation Manager, distributed a DBE Survey to help identify future training needs for small business owners. The survey response is due Wednesday, June 28, 2006 and questions can be directed to Rosalind McDaniel at (916) 324-8423.

**Next Meeting: Friday, July 21, 2006.**

**Approved by:**

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**OLIVIA FONSECA**  
**Deputy Director, Office of Civil Rights**